

Pandemic Influenza: Appropriations for Public Health Preparedness and Response

Updated November 27, 2007

Congressional Research Service

<https://crsreports.congress.gov>

RS22576

Summary

The spread of H5N1 avian influenza (“flu”), and the human deaths it has caused, raise concern that the virus could morph and cause a global human pandemic. Congress has provided specific funding for pandemic flu preparedness since FY2004, including \$6.1 billion in emergency supplemental appropriations for FY2006. These funds bolster related activities to prepare for public health threats, and to control seasonal flu. This report discusses appropriations for pandemic flu, primarily to the Department of Health and Human Services (HHS), and will be updated as needed.

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Background

In 1997, a new avian (bird) flu virus (H5N1) emerged in Asia and killed six people. It has since spread to Europe and Africa. The virus has infected more than 330 people, killing more than half of them. Health officials are concerned that it could change sufficiently to cause a global human pandemic. Beginning in FY2004, Congress has provided funding specifically for pandemic flu preparedness, through both regular and emergency supplemental appropriations. This report describes federal funding for pandemic flu, primarily to the Department of Health and Human Services (HHS). Federal funding to control the disease in birds is generally provided to the U.S. Department of Agriculture (USDA) for activities involving commercial poultry, and to the Department of the Interior for activities involving wildlife. The Departments of Homeland Security, Defense, State, and Veterans Affairs, and the U.S. Agency for International Development (USAID), have also received funds for global avian flu control.¹

It is difficult to track federal funding for flu preparedness, for several reasons. First, funds designated specifically for pandemic flu do not reflect the sum of all relevant activities. For example, programs to improve health surveillance in general, or to streamline federal disaster response, are important for pandemic preparedness. Also, the President has called on all federal agencies to develop continuity plans for a flu pandemic, activities that are typically funded through general administrative accounts. Second, certain activities (e.g., the expansion of vaccine production capacity) address preparedness for both seasonal and pandemic flu, and may not be designated as pandemic spending, despite their relevance. Finally, federal agencies may not prepare budget information, such as the presentation of base funding or annual increases, in a consistent fashion.

This report provides information on appropriations, primarily to HHS, that the Congress has specifically designated for pandemic flu preparedness. Appropriated amounts are presented in **Tables 1** and **2**. Pandemic flu funding for HHS has generally been provided in the Public Health and Social Services Emergency Fund (PHSSEF), an account intended for one-time or short-term activities. This report will be updated.

History of Recent Appropriations

FY2004

In February 2003, the Administration requested \$100 million in FY2004 appropriations for activities to ensure an adequate supply of vaccine in the event of a pandemic.² In P.L. 108-199, the Consolidated Appropriations Act, 2004, Congress provided \$50 million to HHS to enhance vaccine production capacity.³ Funding was used in part to award a \$10 million contract to a domestic manufacturer of injectable flu vaccine to assure a year-round supply of eggs for vaccine production.⁴

¹ For more information, see CRS Reports on appropriations at http://apps.crs.gov/cli/level_2.aspx?PRDS_CLI_ITEM_ID=73, and CRS Report RL33145, *Pandemic Influenza: Domestic Preparedness Efforts*, by Sarah A. Lister.

² HHS, *Budget in Brief, FY2004*, February 2003, pp. 94 and 96, at <http://www.hhs.gov/budget/>.

³ P.L. 108-199, 118 Stat. 251. This amount was subject to a 0.59% rescission.

⁴ HHS: "Secretary Thompson Announces Contract to Secure Future Egg Supply for Flu Vaccines," press release,

FY2005—Regular Appropriations

In February 2004, the Administration requested \$100 million in FY2005 appropriations, again for HHS to expand vaccine production capacity.⁵ In October 2004, while Congress was considering FY2005 appropriations, there was a production failure at a plant supplying half of the nation's supply of injectable seasonal flu vaccine. This resulted in a nationwide shortage, and focused attention on the frailty of the vaccine production system. At the same time, H5N1 avian flu was spreading through Asia. In December 2004, Congress passed P.L. 108-447, the Consolidated Appropriations Act, 2005, providing HHS with the requested \$100 million to bolster flu vaccine production capacity, including the purchase of flu vaccine.⁶

FY2005—Supplemental Appropriations

In May 2005, Congress passed P.L. 109-13, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, providing \$25 million to USAID for programs to control the global spread of avian flu, and stipulating that \$15 million of it be transferred to the Centers for Disease Control and Prevention (CDC). The law also provided \$58 million to CDC to purchase flu countermeasures (vaccines and antiviral drugs) for the Strategic National Stockpile, and \$10 million to HHS for sewer improvements to support an expansion of the nation's only domestic production facility for injectable flu vaccine.⁷

FY2006—Regular Appropriations

In February 2005, the Administration requested \$120 million for HHS for pandemic preparedness for FY2006, including ongoing work to expand vaccine production capacity.⁸ In July 2005, the Administration sought an additional \$150 million to purchase and stockpile flu antiviral drugs and prototype H5N1 vaccines.⁹ In December 2005, Congress provided funding for pandemic flu in FY2006 emergency supplemental appropriations (discussed below), using this vehicle, rather than regular appropriations, to provide the bulk of pandemic funding for FY2006. Also in December 2005, Congress passed regular FY2006 appropriations for HHS in P.L. 109-149, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, providing \$63.6 million to HHS for general public health preparedness activities, including efforts to bolster domestic flu vaccine production capacity and to stockpile vaccine.¹⁰

November 9, 2004; and "Pandemic Influenza Funding Activities," at <http://www.hhs.gov/aspr/barda/procurement/panflu.html>.

⁵ HHS, *Budget in Brief, FY2005*, February 2004, p. 102.

⁶ P.L. 108-447, 118 Stat. 3138. The act also provided \$300,000 above the budget request to the Food and Drug Administration (FDA), for flu vaccine activities. These amounts were subject to a 0.8% rescission.

⁷ H.Rept. 109-72, p. 144, and pp. 149-150.

⁸ HHS, *Budget in Brief, FY2006*, February 2005, text, p. 112, and table, p. 113.

⁹ White House Office of Management and Budget (OMB), Estimate No. 9, July 15, 2005, at http://www.whitehouse.gov/omb/budget/amendments/amendment_7_15_05.pdf.

¹⁰ P.L. 109-149, 119 Stat. 2857-2858. Pursuant to Section 3801 of P.L. 109-148, this amount was subject to a 1% rescission.

FY2006—Supplemental Appropriations

As Congress weighed regular appropriations for FY2006, H5N1 avian flu spread to Europe, and Hurricane Katrina raised concerns about the nation's general level of disaster readiness. In November 2005, the Administration requested \$7.1 billion in emergency supplemental funds for avian and pandemic flu preparedness.¹¹ This included \$6.7 billion for HHS in amounts to be obligated over three years—\$3.2 billion for FY2006, \$2.3 billion for FY2007, and \$1.2 billion for FY2008—and the remainder for FY2006 activities in several other departments and agencies. (See **Table 2.**) The bulk of the amount requested for HHS was to support the expansion of domestic vaccine manufacturing capacity.¹²

First Supplemental

In December 2005, Congress provided \$3.8 billion in emergency supplemental appropriations, including \$3.3 billion for HHS,¹³ in Division B, Title II of P.L. 109-148, the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006. The distribution of these funds to various federal departments and agencies is presented in **Table 2.** Most of the difference between the \$7.1 billion request and the \$3.8 billion appropriation resulted because Congress did not fund the “out years” of the Administration's HHS request, i.e., the amounts for FY2007 and FY2008. In report language (H.Rept. 109-359), conferees directed the Secretary of HHS to report to the appropriations committees on a semi-annual basis regarding the use of the \$3.3 billion provided. HHS has submitted a report to congressional appropriators, and has published updates on these activities.¹⁴

Second Supplemental

In February 2006, in its FY2007 budget request, HHS repeated its November 2005 request for \$2.3 billion in FY2007 emergency supplemental funds for pandemic flu, but sought the funds prior to the regular FY2007 appropriations cycle. (HHS called the \$2.3 billion amount an “allowance.”¹⁵) In June 2006, Congress provided \$2.3 billion in supplemental funds to HHS in Title IV of P.L. 109-234, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.¹⁶ Congress authorized the Secretary of HHS to use most of the funds to further federal domestic preparedness activities, the vaccine initiative (including the construction or renovation of privately owned buildings), and stockpiling of antiviral drugs and medical supplies. Congress directed that \$30 million be transferred to USAID for global disease control activities. No other departments or agencies received funds specifically for avian or pandemic flu in the act. (See **Table 2.**)

¹¹ OMB, Estimate No. 15, November 1, 2005, at http://www.whitehouse.gov/omb/budget/amendments/supplemental_11_01_05.pdf.

¹² Testimony of Michael O. Leavitt, Secretary of Health and Human Services, hearing on Pandemic Influenza before the House Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Education, November 2, 2005, 109th Cong., 1st Sess.

¹³ See P.L. 109-148, 119 Stat. 2783 for amounts to FDA, which is funded through Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations, and 119 Stat. 2786-2787 for the remaining HHS activities.

¹⁴ HHS: Report to Congress, “Pandemic Influenza Preparedness Spending, Conference Report 109-359,” June 15, 2006; and Pandemic Planning Updates I-IV, at <http://www.pandemicflu.gov/plan/tab1.html>.

¹⁵ HHS, *Budget in Brief, FY2007*, February 2006, pp. 99-101.

¹⁶ P.L. 109-234, 120 Stat. 479-480.

FY2007—Regular Appropriations

In February 2006, in addition to supplemental funds noted above, the Administration requested \$352 million for HHS pandemic flu activities in regular FY2007 appropriations.¹⁷ Coincident with passage of the second FY2006 supplemental, the House and Senate Committees on Appropriations each recommended \$78.9 million for the PHSSEF. The Senate committee recommended an additional \$92 million for domestic and global pandemic flu activities at CDC.¹⁸ Similarly, the House passed Agriculture appropriations for FY2007, including \$28.1 million for pandemic flu activities at the Food and Drug Administration (FDA), and the Senate committee reported Agriculture appropriations, including a \$50.5 million increase for FDA pandemic flu activities, to make the FY2007 recommended total in excess of \$60 million.¹⁹

The amounts recommended above were not subsequently enacted. In February 2007, Congress passed FY2007 appropriations for HHS in H.J.Res. 20, the Revised Continuing Appropriations Resolution, 2007 (P.L. 110-5). The law was not accompanied by a conference report. Except for amounts specified—including an amount for pandemic flu—the law provided that departments be funded through FY2007 at the FY2006 level, with certain rescissions and salary adjustments. P.L. 110-5 explicitly provided \$100 million to the PHSSEF, to be transferred to CDC, for preparedness and response to pandemic flu and other emerging infectious diseases. It also rescinded \$29.7 million from CDC regular appropriations for FY2006, intended for the purchase of annual bulk monovalent influenza vaccine (to bolster supplies of seasonal flu vaccine). It did not mention any additional HHS amounts for flu preparedness. Though it is possible that the Department funded additional pandemic flu activities with a portion of its overall appropriation for FY2007, specific amounts, if any, have not been published.

FY2007—Supplemental Appropriations

Two FY2007 supplemental appropriations bills (H.R. 1591 and P.L. 110-28) would have provided an appropriation to HHS for pandemic flu, but in neither case was the provision enacted. The conference report for H.R. 1591, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, which would have provided \$625 million for pandemic flu to the PHSSEF, was vetoed by President Bush on May 1, 2007. H.R. 2206, a bill with the same name that passed in the House, would also have provided \$625 million to the PHSSEF, but the provision was removed before the bill's enactment as P.L. 110-28. The law as enacted provided funds to USAID and the Department of the Interior for avian flu control. The Administration had opposed, among other things, the inclusion of funding for "avian flu preparedness" as emergency spending in H.R. 2206, saying that it was adequately addressed in the FY2008 budget request.²⁰

¹⁷ HHS, *Budget in Brief, FY2007*, February 2006, pp. 99-101.

¹⁸ H.Rept. 109-515, June 20, 2006, p. 169; S.Rept. 109-287, July 20, 2006, pp. 7, 90, 96, and 221.

¹⁹ H.Rept. 109-463, May 12, 2006, p. 115; S.Rept. 109-266, June 22, 2006, p. 144. Amounts reported include some carryover of the \$20 million provided in P.L. 109-148.

²⁰ OMB, Statement of Administration Policy, H.R. 2206, the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, May 10, 2007, at <http://www.whitehouse.gov/omb/legislative/sap/110-1/hr2206sap-h.pdf>. It is not clear in this statement whether the reference to "avian flu preparedness" was intended to include the amounts intended for *pandemic* preparedness efforts at HHS, which were removed from the enacted law. Seasonal, avian and pandemic flu are distinct threats, and are defined on the federal flu preparedness website at <http://www.pandemicflu.gov/>.

FY2008

As discussed earlier, the Administration requested, in November 2005, \$7.1 billion in supplemental funds for pandemic preparedness, of which \$1.16 billion was to be available to HHS in FY2008. The supplemental amount requested for FY2008 has not been appropriated. In its budget proposal for FY2008, the Administration requested \$1.19 billion in regular appropriations for pandemic flu, including \$870 million for the PHSSEF to be available until expended, and \$322 million for ongoing agency activities, principally at CDC, FDA and the National Institutes of Health (NIH).²¹

On November 13, 2007, President Bush vetoed H.R. 3043, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2008. The House failed to override the veto on November 15, 2007. The conference report would have provided \$764 million to the PHSSEF for pandemic flu activities, of which \$686 million was to be used for the development and purchase of vaccine, antiviral drugs, and other supplies. The conference report also included, for CDC, \$37 million for immunization activities related to both seasonal and pandemic flu, and \$69 million for global pandemic flu preparedness activities.²² Agriculture appropriations for FY2008, which may include pandemic preparedness funding for FDA, are also pending at this time.

Table 1. HHS Appropriations Targeted for Pandemic Flu

(dollars in millions)

Funding mechanism	FY2004	FY2005	FY2006	FY2007	FY2008 request
Regular appropriations	\$50 ^a	\$99 ^b	\$63 ^d	\$100 ^f	\$1,192 ^g
Supplemental appropriations	0	83 ^c	5,620 ^e	0	0
TOTAL	\$50	\$182	\$5,683	\$100^f	\$1,192

a. Reflects a 0.59% rescission.

b. Reflects a 0.8% rescission.

c. Includes \$15 million transferred to CDC from USAID.

d. Amount is not restricted to avian and pandemic flu activities, and reflects a 1.0% rescission.

e. Includes \$30 million to be transferred to USAID.

f. Additional amounts may have been allocated from the total HHS appropriation.

g. Of this amount, \$870 million is requested to be available until expended.

Table 2. FY2006 Supplemental Appropriations for Avian and Pandemic Flu

(dollars in millions)

Department or Agency	Supplemental request ^a	P.L. 109-148	P.L. 109-234
Agriculture	\$91.4	\$91.4	0
Defense	130.0	130.0	0
HHS			
(Request for FY2006)	3,200.0 ^b	3,320.0 ^b	2,300.0 ^c

²¹ HHS, *Budget in Brief, FY2008*, February 2007, pp. 102-104.

²² H.Rept. 110-424, November 5, 2007, pp. 125, 134, and 164-165.

(Request for FY2007)	2,300.0	0	0
(Request for FY2008)	1,160.0	0	0
Total for three years	6,660.0 ^b	3,320.0 ^b	2,300.0 ^c
Homeland Security	47.3	47.3	0
Interior	11.6	11.6	0
State	38.5	31.0	0
Veterans Affairs	27.0	27.0	0
USAID	131.5	131.5	0
TOTAL	\$7,137.3	\$3,789.8	\$2,300.0

- a. White House Office of Management and Budget, Estimate No. 15, Nov. 1, 2005, at http://www.whitehouse.gov/omb/budget/amendments/supplemental_11_01_05.pdf.
- b. Includes \$20 million for FDA, provided in Agriculture appropriations.
- c. Includes \$30 million to be transferred to USAID.

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